

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6139 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JUNED AHMED SALEH AHMED PATHAN

Versus

CP SINGH

Appearance:

MR MIG MANSURI for Petitioner
Shri Kamal Mehta, learned AGP for the respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 05/11/96

ORAL JUDGEMENT

By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner challenges the order of detention dated 9.7.1996 passed by the Commissioner of Police, Ahmedabad City. It is alleged that two cases under Indian Penal Code have been registered against the petitioner. In the first case being C.R. No.11/94 the petitioner is facing trial for the offences pertaining under TADA Act. It is submitted by

the learned counsel that the petitioner has been falsely implicated under TADA Act and in fact there is no evidence against him. As such he has been enlarged on bail. The second case pertains to offence under sec.120(B) and 307 of IPC. Two other cases have been registered under Bombay Prohibition Act. It is contended by the learned counsel that simply because there are some stray cases with respect of offence under IPC, it cannot be said that the detenu is a dangerous person. The learned counsel relies on the decision of the Apex Court in the case of Mustakmiya Jabbarmiya Shaikh v. M.M. Mehta, Commissioner of Police and others, (1995) 3 SCC 237. He also submits that there is no material to show that as a bootlegger the petitioner has entered into the activities which are prejudicial to maintenance of public order or likely to adversely affect the maintenance of public order. He also relies on the decision of the Apex Court in the case of Piyush Kantilal Mehta v. Commissioner of Police, Ahmedabad City and another, AIR 1989 SC 491.

2. With the assistance of the learned counsel I have perused the material on record. The petitioner cannot be branded as a dangerous person in view of the law laid down by the Apex Court in the case of Mustakmiya Jabbarmiya (supra). There is no material to show that the activities of the petitioner as a bootlegger has affected adversely or likely to affect adversely the maintenance of public order. In view of this the impugned order of detention is not sustainable.

3. In the result the Special Civil Application is allowed. The order of detention dated 9.7.1996 is quashed and set aside. The petitioner shall be released forthwith if he is not required in any other case.

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